



C o u n t y o f S a n L u i s O b i s p o

GENERAL SERVICES AGENCY

Janette D. Pell, Director

Cody VanDorn, Department Administrator

REQUEST FOR PROPOSAL PS- #1203-12

Santa Maria Groundwater Basin Characterization and Planning Activities

December 20, 2012

The County of San Luis Obispo (County) is currently soliciting proposals for professional services for Santa Maria Groundwater Basin Characterization and Planning Activities.

Each proposal shall specify each and every item as set forth in the attached specifications. Any and all exceptions must be clearly stated in the proposal. Failure to set forth any item in the specifications without taking exception may be grounds for rejection. The County reserves the right to reject any and all proposals and to waive any irregularity or informality in any proposal or in the Request for Proposal process, as long as, in the judgment of the County, such action will not negate fair competition and will permit proper comparative evaluation of the proposals submitted.

This Request for Proposal is posted on the County's Purchasing website at http://www.slocounty.ca.gov/GSA/Purchasing/Current_Formal_Bids_and_Proposals.htm. Any changes, additions, or deletions to this Request for Proposal will be in the form of written addenda issued by the County. Any addenda will be posted on the website. Prospective proposers must check the website for addenda or other relevant new information during the response period. The County is not responsible for the failure of any prospective proposer to receive such addenda. All addenda so issued shall become a part of this Request for Proposal.

If your firm is interested and qualified, please submit six (6) hard copies and one (1) electronic copy (on CD) of your proposal on January 24, 2013 by 3:00 p.m. to:

County of San Luis Obispo
DEBBIE BELT, GSA Purchasing
1087 Santa Rosa Street
San Luis Obispo, CA 93408

If you have any questions about the proposal process, please contact me. For technical questions and information contact Courtney Howard at (805) 781-1016.

All questions pertaining to the content of this Request for Proposal must be made in writing via e-mail to Courtney Howard at: choward@co.slo.ca.us. All questions will receive a response within 4 business days. The question and its response will be posted (anonymously) on the County's Purchasing web site located at the link above. The County reserves the right to determine the appropriateness of comments/questions that will be posted on the website.

DEBBIE BELT
Buyer – GSA Purchasing
dbelt@co.slo.ca.us

Santa Maria Groundwater Basin Characterization and Planning Activities

LOCAL VENDOR PREFERENCE

The County has established a local vendor preference. When quality, service, and other relevant factors are equal, responses to Requests for Proposals will be evaluated with a preference for local vendors. Note the following exceptions:

1. Those contracts which State Law or, other law or regulation precludes this local preference.
2. Public works construction projects.

A "local" vendor preference will be approved as such when, 1) The vendor conducts business in a fully staffed office with a physical address within the County of San Luis Obispo; 2) The vendor holds a valid business license issued by the County or a city within the County; and 3) The vendor has conducted business at the local address for not less than six (6) months prior to the due date of this Request for Proposal..

Proposals received in response to this Request for Proposal will be evaluated by the Selection Committee considering the local vendor preference described above when quality, service and other relevant factors are equal. The burden of proof will lie with proposers relative to verification of "local" vendor preference. Should any questions arise, please contact a buyer at (805) 781-5200.

	YES	NO
Do you claim local vendor preference?		
Do you conduct business in an office with a physical location within the County of San Luis Obispo?		
Business Address: _____ _____		
Years at this Address: _____		
Does your business hold a valid business license issued by the County or a City within the County?		
Name of Local Agency which issued license: _____		

Business Name: _____

Authorized Individual: _____ Title: _____

Signature: _____ Dated: _____

Santa Maria Groundwater Basin Characterization and Planning Activities**PROPOSAL SUBMITTAL AND SELECTION**

1. All proposals, consisting of six (6) hard copies and one (1) electronic copy (on CD) must be received by mail, recognized carrier, or hand delivered no later than 3:00 p.m. on January 24, 2013. Late proposals will not be considered and will be returned, unopened.
2. All correspondence should be directed to:

San Luis Obispo County
General Services Agency
1087 Santa Rosa Street
San Luis Obispo, CA 93408
ATTENTION: DEBBIE BELT
Telephone: (805) 781-5903

3. All costs incurred in the preparation and submission of proposals and related documentation will be borne by the proposer.
4. It is preferred that all proposals be submitted on recycled paper, printed on two sides.
5. Selection of qualified proposers will be by an impartial Selection Committee using an approved County procedure for awarding professional contracts. Selection will be made on the basis of the proposals as submitted, although the County reserves the right to interview applicants as part of the selection process. The proceedings of the Selection Committee are confidential, and members of the Selection Committee are not to be contacted by the proposers.
6. This Request for Proposal does not constitute an offer of employment or to contract for services.
7. The County reserves the option to accept or reject any or all proposals, wholly or in part, received by reason of this request, and make more than one award, or no award, as the best interests of the County may appear.
8. All documents submitted to the County in response to this Request for Proposal will become the exclusive property of the County and may be returned to the proposer or kept by the County, in the County's sole discretion.
9. All proposals shall remain firm for sixty, (60) days following closing date for receipt of proposals.
10. The County reserves the right to award the contract to the firm who presents the proposal which in the judgment of the County, best accomplishes the desired results, and shall include, but not be limited to, a consideration of the professional service fee.
11. Any contract awarded pursuant to this Request for Proposal will incorporate the requirements and specifications contained in this Request for Proposal. All information presented in a proposer's proposal will be considered binding upon selection of the successful proposer, unless otherwise modified and agreed to by the County during subsequent negotiations.
12. The successful proposer is expected to execute a contract similar to the contract in Appendix A. This sample contract is for reference to the anticipated terms and conditions governing the County and the successful proposer. The proposer must take exception in their proposal to any section of the attached contract they do not agree with. Failing to do so will be deemed as acceptance by the proposer to the terms spelled out in the sample contract. The County reserves the right, in its sole discretion, to add, delete, or modify, or negotiate additional terms and conditions to the attached contract. BEFORE BEGINNING ANY WORK OR SUBMITTING A

Santa Maria Groundwater Basin Characterization and Planning Activities

PROPOSAL IT IS ADVISED THAT PROPOSERS READ THE COUNTY INSURANCE AND INDEMNIFICATION REQUIREMENTS IN THE ATTACHED SAMPLE CONTRACT. The selected proposer will be asked to provide evidence that County insurance requirements have been met. See Appendix A – Sample County Contract, and in the Sample County Contract the insurance requirements are found in Article 6.

13. Under the provisions of the California Public Records Act (the “Act”), Government Code section 6252 et seq., all “public records” (as defined in the Act) of a local agency, such as the County, must be available for inspection and copying upon the request of any person. Under the Act, the County may be obligated to provide a copy of any and all responses to this Request for Proposal, if such requests are made after the contract is awarded. One exception to this required disclosure is information which fits within the definition of a confidential trade secret [Government Code section 6254(k)] or contains other technical, financial or other data whose public disclosure could cause injury to the proposer’s competitive position. If any proposer believes that information contained in its response to this Request for Proposal should be protected from disclosure, the proposer MUST specifically identify the pages of the response that contains the information by properly marking the applicable pages and inserting the following notice in the front of its response:

***NOTICE:** The data on pages _ of this response identified by an asterisk (*) contain technical or financial information, which are trade secrets, or information for which disclosure would result in substantial injury to the proposer’s competitive position. Proposer requests that such data be used only for the evaluation of the response, but understands that the disclosure will be limited to the extent the County considers proper under the law. If an agreement is entered into with the proposer, the County shall have the right to use or disclose the data as provided in the agreement, unless otherwise obligated by law.*

The County will not honor any attempt by proposer to designate its entire proposal as proprietary. If there is any dispute, lawsuit, claim or demand as to whether information within the response to the Request for Proposal is protected from disclosure under the Act, proposer shall indemnify, defend, and hold harmless, the County arising out of such dispute, lawsuit, claim or demand.

14. An electronic copy of your proposal must be included. This electronic copy should include all documents being submitted combined into one Adobe Acrobat (pdf) file on a CD, using this convention for the file name: FIRM NAME + RFP NUMBER (e.g., if your firm is Acme Inc. and you are responding to RFP #1101, your Acrobat (pdf) file would be named: **ACME 1101.pdf**)

Additionally, if you deem any part of your proposal as proprietary and not to be disclosed under the California Public Records Act as explained in item 13 above, please mark the CD with the phrase “**Proprietary Information Included**”. This can be hand written or printed on the CD label.

Santa Maria Groundwater Basin Characterization and Planning Activities**PROPOSAL FORMAT**

A qualifying proposal must address all of the following points and shall be in the format outlined in this section:

1. Project Title
2. Applicant or Firm Name
3. Firm Qualifications
 - a. Type of organization, size, professional registration and affiliations.
 - b. Names and qualifications of personnel to be assigned to this project.
 - c. Outline of recent projects completed that are directly related to this project. Consultant is required to demonstrate specific expertise relating to groundwater hydrogeology, characterization, management and modeling; salt and nutrient management planning; integrated regional water management, water resources planning, and the requirements of the Scope of Services. Knowledge of the Santa Maria Groundwater Basin is also preferred.
 - d. Qualifications of consultants, subcontractors, or joint venture firm, if appropriate.
 - e. Client references from recent related projects which were led by the individuals named in 3.b above, including name, address and phone number of individual to contact for referral.
4. Understanding of and Approach to the Project
 - a. Summary of approach to be taken, including a description of the organization and staffing to be used for the project.
 - b. Provide an assigned personnel organizational chart so that it is simple to incorporate as an exhibit to the District's Consultant Agreement (standard agreement provided as Attachment A).
5. Scope of Work
 - a. Detail how your firm will satisfy the individual tasks identified herein.
 - b. Prepare the scope of work so that it is simple to incorporate as an exhibit to the District's Consultant Agreement.

Santa Maria Groundwater Basin Characterization and Planning Activities6. Fees and Insurance

- a. Provide a cost proposal containing estimated person-hours and respective billing rates plus other direct costs and structured similarly to the scope of work.
- b. Provide a fee schedule for both the prime consultant and any subconsultants spanning the anticipated duration of the Project.
- c. Both the fee schedule and cost proposal shall be simple to incorporate as an exhibit to the District's Consultant Agreement.

7. Accomplishment Schedule

- a. Provide a task completion schedule in accordance with Scope of Services and Schedule, estimating the time frame necessary to complete each component of the Project once a Notice to Proceed is issued.
- b. The anticipated completion date for the Project is late 2013.

Santa Maria Groundwater Basin Characterization and Planning Activities**GENERAL INFORMATION**

This Request for Proposal (RFP) seeks professional services for conducting activities to characterize the Northern Cities and Nipomo Mesa Management Areas of the Santa Maria Groundwater Basin (SMGB or Basin). The San Luis Obispo County IRWM Region (SLO Region), led by the San Luis Obispo County Flood Control and Water Conservation District (District), was recently awarded an IRWM planning grant (\$200,000) for this project. This is one component of the overall update to the SLO Region's IRWM Plan, which is being performed under a separate contract. However, the selected consultant will need to coordinate with the District's IRWM Plan update consultant to incorporate this focused planning study into the updated IRWM Plan.

The selected consultant will need to be familiar with the IRWM Program, the State's boilerplate grant agreement and the scope of the SLO Region's IRWM Plan update in order to conduct work in a manner that supports the SLO Region's effort to develop a State-standards compliant IRWM Plan. The State's website for the IRWM Program is: <http://www.water.ca.gov/irwm/guidelines.cfm>. For more information and background on IRWM efforts in the SLO Region, click on the IRWM button at www.slocountywater.org.

The selected consultant will also need to be familiar with the State Water Board's Recycled Water Policy and Salt and Nutrient Management Planning elements in order to conduct work in a manner that supports the future development of a Salt and Nutrient Management Plan (SNMP) and potentially a computer-based groundwater model of the Basin.

Santa Maria Groundwater Basin Background

The Santa Maria Groundwater Basin is a critical water supply resource for southern San Luis Obispo County and northern Santa Barbara County. The SMGB has been subject to ongoing litigation since 1997. In 2005, a stipulation signed by many of the litigation parties divided the groundwater basin into three management areas consistent with the Basin boundary: the Northern Cities Management Area (NCMA); the Nipomo Mesa Management Area (NMMA); and the Santa Maria Valley Management Area (SMVMA). The Stipulation was substantially accepted by the Court via the January 25, 2008 Judgment. The extent of the SMGB and the boundaries of the three management areas are shown in the figure below. Note that the SMGB underlies two IRWM Regions: San Luis Obispo County and Santa Barbara County. The area the scope of work for this project addresses includes the Northern Cities and Nipomo Mesa Management Areas of the SMGB, and is herein referred to as the Project Area.

Agencies and stakeholders overlying the Project Area believe that developing a SNMP is a critical step toward protecting the beneficial uses of the SMGB. The initial step in the development of a SNMP is to develop a better understanding of the hydrogeologic and hydrologic conditions that exist within the groundwater basin. The development of a complete SNMP requires using this information to address numerous elements related to the fate and transport of salts and nutrients within the groundwater basin. The scope for this project contains tasks that will support the development of a SNMP for the SMGB, but will not produce a completed SNMP for the SMGB. Similarly, agencies and stakeholders overlying the SMVMA are also in the process of conducting preliminary SNMP efforts for that management area of the SMGB and coordinating with the Santa Barbara County IRWM Region is a component of the scope of work for this project.

Santa Maria Groundwater Basin Characterization and Planning Activities



Santa Maria Groundwater Basin Characterization and Planning Activities

Santa Maria Groundwater Basin Characterization Overview

The objectives of this Santa Maria Groundwater Basin Characterization and Planning Activities project are to:

- Build on previous successful collaboration and planning by creating a Steering Committee and engaging stakeholders, particularly the disadvantaged communities within the Project Area and Santa Barbara County agencies and stakeholders;
- Compile data related to the Project Area and identify data gaps;
- Install equipment and conduct field work to investigate certain Project Area characteristics;
- Develop goals and objectives for completing a SNMP and potentially a computer-based groundwater model of the SMGB, and assess the Project Area's vulnerability to climate change; and
- Produce a compiled report for the Project.

There are a variety of documents that have been produced that will be useful for this project. Some of the relevant documents, including California Department of Water Resources (DWR) guidelines, are as follows (with links as available):

- NCMA Annual Reports
- NMMA Annual Reports:
 - <http://ncsd.ca.gov/Library/NMMA%20Technical%20Group/2008%20ANNUAL%20REPORT.pdf>
 - <http://ncsd.ca.gov/Library/NMMA%20Technical%20Group/2009%20ANNUAL%20REPORT.pdf>
 - <http://ncsd.ca.gov/Library/NMMA%20Technical%20Group/2010%20ANNUAL%20REPORT.pdf>
 - <http://ncsd.ca.gov/Library/NMMA%20Technical%20Group/2011%20ANNUAL%20REPORT.pdf>
- NMMA Deep Percolation Analysis
- NMMA Geological Cross Sections
- Other References/links:
 - http://www.water.ca.gov/waterdatalibrary/docs/historic/Bulletins/Bulletin_63/Bulletin_63_1970.pdf
 - http://www.water.ca.gov/waterdatalibrary/docs/historic/Bulletins/Bulletin_63/Bulletin_63_1975.pdf
 - <http://ncsd.ca.gov/Library/Groundwater%20Information/PAPADOPULOS%20REPORT.pdf>
 - http://ncsd.ca.gov/Library/Supplemental_Water/LAWRANCE%20FISK%20MCFARLAND/GROU_NDWATER%201993.pdf
 - http://www.dpla.water.ca.gov/sd/water_quality/arroyo_grande/arroyo_grande-nipomo_mesa.html
 - [http://www.slocounty.ca.gov/Assets/PL/EIR/2012/Revised+Draft+EIR+Laetitia+Ag+Cluster+Subdivision/B1+-+Laetitia+Groundwater+Report+-+Geosyntec+\(Oct+2011\).pdf](http://www.slocounty.ca.gov/Assets/PL/EIR/2012/Revised+Draft+EIR+Laetitia+Ag+Cluster+Subdivision/B1+-+Laetitia+Groundwater+Report+-+Geosyntec+(Oct+2011).pdf)
 - <http://www.countyofsb.org/uploadedFiles/pwd/Water/WaterAgency/Report%20Document%20DraftFINALSecured.pdf>
 - <http://www.ci.santa-maria.ca.us/Twichell-04.html>
- State's Integrated Regional Water Management Plan Guidelines (2012)
<http://www.water.ca.gov/irwm/guidelines.cfm>

Santa Maria Groundwater Basin Characterization and Planning Activities**SCOPE OF SERVICES**

NOTE: DWR has recommended a grant for completion of this work in accordance with the scope contained in the SLO Region's March 2012 IRWM Planning Grant Proposal. Consultants may address modifications to the scope, but must include in their proposal an associated discussion of benefits, reasoning and the potential for DWR acceptance to ensure there will be no resulting complication when entering into the grant agreement with DWR.

Please refer to Task 19.4 of SLO Region Integrated Regional Water Management Planning Grant Application Attachment #3 (website link below).

<http://www.slocountywater.org/site/Frequent%20Downloads/Integrated%20Regional%20Water%20Management%20Plan/Grant%20Applications/PROP%2084%20Round%202%20Planning/index.htm>

1. Project Administration**Steering Committee**

Facilitate Steering Committee¹ and public involvement. The Steering Committee will provide project management input to the District and recommendations and endorsements will be obtained at all significant project decision points. The Steering Committee will operate by consensus; however, when consensus cannot be reached, majority opinion will prevail.

Progress Reports

Assist the District with preparing monthly progress reports as necessary to comply with the quarterly reporting requirements of the IRWM Planning Grant agreement.

Project Management

This task includes all project management activities and meeting attendance required by the consultant to facilitate the project, including but not limited to:

- Kickoff Meeting (following Notice to Proceed)
- Maintaining progress schedules
- Budget oversight
- Monthly progress reports to District staff
- Invoicing for work-completed and formatted in a way that will allow the District to utilize them easily for developing invoices to DWR (i.e. non-reimbursable expenses readily identifiable)

Technical Review – QA/QC

Utilize an internal QA/QC process to review deliverables prior to submittal.

¹ It is anticipated that the agencies participating on the Steering Committee will include the District, City of Arroyo Grande, City of Grover Beach, City of Pismo Beach, Oceano Community Services District, Nipomo Community Services District, Woodlands Mutual Water Company, Golden State Water Company and Phillips 66.

Santa Maria Groundwater Basin Characterization and Planning Activities**2. Data Analysis**

Extensive geologic and hydrogeologic analyses have been performed in the SMGB. The Steering Committee will work collaboratively with the consultant to obtain previously completed analyses and prevent redundant work from being completed as part of the scope of work for this project.

Data Compilation

Review previously completed geologic and hydrogeologic studies and develop a database of available resources. Database should include previously completed: technical reports; monitoring plans; monitoring reports; response plans; legal documents; well data; topographic data; aerial imagery; etc. Quality assurance/quality control (QA/QC) of the data will be conducted for any duplicate records and general checking of the data from various sources for uniform formats, parameters, spatial information and confidentiality issues.

Identify Data Gaps

Review the compiled data and information and identify any significant data gaps related to the future development of a SNMP and computer-based groundwater model. Work with the Steering Committee to prioritize the data gaps to assist in developing the specific scope of work for the subsequent tasks.

Anticipated Deliverables:

- Technical Memorandum that summarizes the available information, the data compilation and organization approach and results, and the existing data gaps.
- Compilation of all materials in electronic format indexed and organized by major classification/subject

3. Groundwater Basin Characterization for the Project Area**Transducer Installation**

Evaluate the existing network of monitoring wells within the Project Area and identify wells for the installation of water level and/or temperature and electrical conductivity transducers. Priority should be given to monitoring wells that: integrate into applicable SMGB management area response plans utilized by Steering Committee members; materially advance the development of a SNMP; materially advance the development, calibration and accuracy of a computer-based groundwater model; have bore hole logs and known well screen depths.

Coordinate with the Steering Committee to select the locations, and then install pressure/temperature/conductivity probes in four monitoring wells.

Geologic Cross-Sections

Evaluate available hydrogeologic information and select 10 - 12 locations to develop geologic cross-sections. Develop geologic cross-sections using bore hole lithologic logs and other available information. Coordinate with the Steering Committee to select locations that will be most beneficial to the development of a SNMP and potentially a computer-based groundwater model.

Well Testing

Evaluate the existing network of water supply and monitoring wells and select 8-10 representative locations to perform well testing. Conduct well testing and utilize well testing results to assess aquifer characteristics, including transmissivity.

Santa Maria Groundwater Basin Characterization and Planning Activities**Surface Water Infiltration**

Investigate and quantify infiltration into the Project Area from surface water bodies. Specific areas of interest include, but are not limited to: Arroyo Grande Creek; Los Berros Creek; Meadow Creek; Nipomo Creek.

Recharge Areas

Investigate areas within the Project Area that would be suitable for supplemental groundwater recharge. Evaluate different recharge mechanisms including: stormwater detention ponds; percolation ponds; injection wells; etc.

Offshore Aquifers and Seawater Intrusion

Review existing technical reports and seafloor and subsurface geology characteristics for offshore aquifers and evaluate the sources and mechanisms for discharge and the relation to seawater intrusion in the Project Area.

Anticipated Deliverable:

- Technical Memorandum that summarizes the results of the Groundwater Basin Characterization for the Project Area.

4. Climate Change

Complete the DWR Vulnerability Assessment Checklist related to climate change for the Project Area and include with the final report. Coordinate with agencies and stakeholders in the Santa Barbara County portion of the SMGB to address consistency. The assessment should utilize the projected climate change conditions as described in the reports titled Projected Future Climatic and Ecological Conditions in San Luis Obispo County, April 2010 (http://www.lgc.org/adaptation/slo/docs/SLOModelReport_FINALsmall.pdf), and Integrated Climate Change Adaptation Planning in San Luis Obispo County, November 2010 (http://www.slocounty.ca.gov/Assets/PL/CAP-LUCE/climate_change.pdf). These two reports form the basis for updating climate change conditions and assessing climate change vulnerabilities in the SLO Region IRWM Plan.

Anticipated Deliverable:

- Completed DWR Vulnerability Assessment Checklist.

5. Goals and Objectives

Hold a public workshop to review the results of the Groundwater Basin Characterization and establish goals and objectives for developing the SNMP and computer-based groundwater model for the SMGB. Facilitate disadvantaged community participation if needed. Coordinate this effort with agencies and stakeholders in the Santa Barbara County portion of the SMGB. Incorporate comments received during workshop and the public comment period into the final Groundwater Basin Characterization report for the Project Area.

6. IRWM Plan Coordination

Coordinate with the SLO Region IRWM Plan Update consultant to integrate information from the final Groundwater Basin Characterization report for the Project Area, and information gathered from the SNMP effort in the Santa Barbara County IRWM region, into relevant sections of the Plan.

Anticipated Deliverables:

- PowerPoint presentation and summary notes for the public workshop
- A final report or compilation of the Technical Memorandums, including information from Tasks 4 and 5

Santa Maria Groundwater Basin Characterization and Planning Activities

SCHEDULE

The SLO Region is currently developing an implementation grant agreement with DWR, and anticipates executing the agreement in early 2013. A requirement of the agreement is to update and adopt the IRWM Plan to meet the current DWR IRWM guidelines within two years of agreement execution (by late-2014). However, it is anticipated that a Round 3 Implementation Grant opportunity may be available in mid-2014. Therefore late-2013 is the firm completion window for this project so the results can be integrated into the updated Plan.

Submitting email questions regarding RFP and Scope of Services January 17, 2013 at 5:00 PM

Proposal Deadline January 24, 2013 at 3:00 PM

Notice to Proceed..... assume March 1, 2013

SELECTION STANDARDS

The Selection Committee will evaluate proposals based on how well they meet the following standards:

- Personnel assigned to the project have experience in accordance with the scope of services and serve in key roles.
- Recent projects cited reflect the scope of services for this project and included the same personnel proposed for this project, and a reference is provided.
- Recent projects reflect expertise relating to groundwater hydrogeology, characterization, management and modeling, preferably in the SLO Region and/or neighboring regions; and knowledge of SNMP requirements and Integrated Regional Water Management Program efforts.
- Subcontractors have a clear role and value.
- The approach is clear, organized and detailed to demonstrate that the Basin characterization objectives will be achieved.
- Any deviations from the scope are clearly iterated and the benefit described.
- Participation by the Steering Committee, the public and other agencies is clear and appropriate.
- There are adequate, in both competency and number, key personnel assigned to the project.
- The schedule is detailed and consistent with the scope.

Appendix A

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES (NON-FEDERAL FUNDING)

This Agreement is entered into by and between the SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a political subdivision of the State of California, herein called "DISTRICT," and _____, a corporation whose address is _____, herein called "ENGINEER." This Agreement shall be effective as of the date it is fully executed by the parties.

The department responsible for administering this Agreement is the San Luis Obispo County Department of Public Works ("Public Works"), and all written communications hereunder with the DISTRICT shall be addressed to the Director of Public Works ("Director").

WHEREAS, the DISTRICT has need for special services and advice with respect to the work described herein for the _____ Project (hereafter, the "Project"); and

WHEREAS, the ENGINEER warrants that it is specially trained, experienced, expert, and competent to perform such special services;

NOW, THEREFORE, the parties agree with the above recitals, and hereby further agree as follows:

ARTICLE 1. SCOPE OF WORK. The ENGINEER shall, at its own cost and expense, provide all the services, equipment, and materials necessary to complete the work described in the ENGINEER's Scope of Work (hereafter, collectively "Work") attached hereto as Exhibit A. ENGINEER warrants and represents that said Work encompasses all professional engineering services necessary for the ENGINEER's preparation of final design plans and specifications for the public bidding of the construction of the Project. All Work shall be performed to the highest professional standard.

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ARTICLE 2. TIME FOR COMPLETION OF WORK. No Work shall be commenced prior to the ENGINEER's receipt of the DISTRICT's Notice to Proceed. All Work shall be completed no later than _____, _____, 20____, provided, however, that extensions of time may be granted in writing by the Director of Public Works of San Luis Obispo County, which said extensions of time, if any, shall be granted only for reasons attributable to inclement weather, acts of God, or for other cause determined in the sole discretion of the Director of Public Works of San Luis Obispo County to be good and sufficient cause for such extensions.

ARTICLE 3. PAYMENT FOR SERVICES.

A. **COMPENSATION.** The DISTRICT shall pay to the ENGINEER as compensation in full for all Work required by this Agreement a sum not to exceed the \$_____. The ENGINEER's compensation shall be based on actual services performed and costs incurred at the rates set forth for each task in the ENGINEER's Cost Proposal attached hereto as Exhibit B. Progress payments will be made as set forth below based on compensable services provided and allowable costs incurred pursuant to this Agreement.

B. **REPORTS.** The ENGINEER shall submit to the DISTRICT, on a monthly basis, a detailed statement of all services performed and all Work accomplished under this Agreement since the ENGINEER's last monthly statement, including the number of hours of Work performed and the personnel involved. For the purpose of timely processing of invoices, the ENGINEER's invoices are not regarded as received until the monthly report is submitted. Any anticipated problems in performing any future Work shall be noted in the monthly reports. The ENGINEER shall also promptly notify the DISTRICT of any perceived need for a change in the scope of work, and an explanation as to why the ENGINEER did not include said work in the attached Scope of Work.

C. **INVOICES.** Billing invoices shall be based upon the ENGINEER's Cost Proposal, attached hereto as Exhibit B. Invoices shall detail the Work performed on each task and each project as applicable. Invoices shall follow a format based upon the Cost Proposal and shall reference this Agreement number and project title. Final invoice must contain the final cost and all credits due the DISTRICT including any equipment purchased under the provisions of Article 22 Equipment Purchase of this Agreement.

D. **RETAINAGE FROM PROGRESS PAYMENTS** The DISTRICT shall withhold retainage from each progress payment due ENGINEER in the sum of 10 percent until the

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final design plans and specifications for the construction of the Project are accepted by the DISTRICT. Once said plans and specifications are accepted by the DISTRICT, all retainage shall be released within 60 days. The DISTRICT reserves the right to withhold from any payment to ENGINEER, including but not limited to any release of retainage, any sums attributable to any costs, damages or claims incurred or experienced by the DISTRICT that arise from any breach of this Agreement by ENGINEER.

E. **ENGINEER'S ASSIGNED PERSONNEL.** All Work performed under this Agreement shall be performed by the ENGINEER's personnel indentified in the organizational chart, attached hereto as Exhibit C. Any changes to the any personnel designated on this organizational chart must be approved in writing by the DISTRICT's Project Manager.

ARTICLE 4. ACCOUNTING RECORDS.

A. The ENGINEER shall maintain accounting records in accordance with generally accepted accounting principles. The ENGINEER shall obtain the services of a qualified bookkeeper or accountant to ensure that accounting records meet this requirement. The ENGINEER shall maintain acceptable books of accounts which include, but are not limited to, a general ledger, cash receipts journal, cash disbursements journal, general journal, and payroll journal.

B. The ENGINEER shall record costs in a cost accounting system which clearly identifies the source of all costs. Agreement costs shall not be co-mingled with other project costs, but shall be directly traceable to contract billings to the DISTRICT. The use of worksheets to produce billings shall be kept to a minimum. If worksheets are used to produce billings, all entries should be documented and clearly traceable to the ENGINEER's cost accounting records.

C. All accounting records and supporting documentation shall be retained for a minimum of five (5) years or until any audit findings are resolved, whichever is later. The ENGINEER shall safeguard the accounting records and supporting documentation.

D. The ENGINEER shall make accounting records and supporting documentation available on demand to the DISTRICT and its designated auditor for inspection and audit. Disallowed costs shall be repaid to the DISTRICT. The DISTRICT may require having the ENGINEER's accounting records audited, at the ENGINEER's expense, by an accountant licensed by the State of California. The audit shall be presented to the County Auditor-Controller within thirty (30) calendar days after completion of the audit.

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ARTICLE 5. NON-ASSIGNMENT OF AGREEMENT. Inasmuch as this Agreement is intended to secure the specialized services of the ENGINEER, the ENGINEER may not assign, transfer, delegate, or sublet any interest herein without the prior written consent of the DISTRICT and any such assignment, transfer, delegation, or sublease without the DISTRICT's prior written consent shall be considered null and void.

ARTICLE 6. INSURANCE. The ENGINEER, at its sole cost and expense, shall purchase and maintain the insurance policies set forth below on all of its operations under this Agreement. Such policies shall be maintained for the full term of this Agreement and the related warranty period (if applicable) and shall provide products/completed operations coverage for four (4) years following completion of the ENGINEER's Work under this Agreement and acceptance by the DISTRICT. Any failure to comply with reporting provisions(s) of the policies referred to above shall not affect coverage provided to the DISTRICT, its officers, employees, volunteers, and agents. For purposes of the insurance policies required hereunder, the term "DISTRICT" shall include officers, employees, volunteers, and agents of the San Luis Obispo Flood Control and Water Conservation District, California, individually or collectively.

A. **MINIMUM SCOPE AND LIMITS OF REQUIRED INSURANCE POLICIES.** The following policies shall be maintained with insurers authorized to do business in the State of California and shall be issued under forms of policies satisfactory to the DISTRICT:

1. **COMMERCIAL GENERAL LIABILITY INSURANCE POLICY ("CGL").** Policy shall include coverage at least as broad as set forth in Insurance Services Office (herein "ISO") Commercial General Liability coverage. (Occurrence Form CG0001) with policy limits not less than the following:
 - \$1,000,000 each occurrence (combined single limit);
 - \$1,000,000 for personal injury liability;
 - \$1,000,000 aggregate for products-completed operations; and
 - \$1,000,000 general aggregate.

The general aggregate limits shall apply separately to the ENGINEER's Work under this Agreement.

2. **BUSINESS AUTOMOBILE LIABILITY POLICY ("BAL").** Policy shall include coverage at least as broad as set forth in Insurance Services Office Business

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Automobile Liability Coverage, Code 1 "Any Auto" (Form CA 0001). This policy shall include a minimum combined single limit of not less than One-million (\$1,000,000) dollars for each occurrence, for bodily injury and/or property damage. Such policy shall be applicable to vehicles used in pursuit of any of the activities associated with this Agreement. The ENGINEER shall not provide a Comprehensive Automobile Liability policy which specifically lists scheduled vehicles without the express written consent of DISTRICT.

3. **WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY ("WC / EL")**. This policy shall include at least the following coverages and policy limits:

- a. Workers' Compensation insurance as required by the laws of the State of California; and
- b. Employer's Liability Insurance Coverage B with coverage amount not less than one-million (\$1,000,000) dollars each accident / Bodily Injury (herein "BI"); one-million (\$1,000,000) dollars policy limit BI by disease; and, one-million (\$1,000,000) dollars each employee BI by disease.

4. **PROFESSIONAL LIABILITY INSURANCE POLICY ("PL")**. This policy shall cover damages, liabilities, and costs incurred as a result of the ENGINEER's professional errors and omissions or malpractice. This policy shall include a coverage limit of at least One-Million Dollars (\$1,000,000) per claim, including the annual aggregate for all claims (such coverage shall apply during the performance of the services under this Agreement and for two (2) years thereafter with respect to incidents which occur during the performance of this Agreement). The ENGINEER shall notify the DISTRICT if any annual aggregate is eroded by more than seventy-five percent (75%) in any given year.

B. **DEDUCTIBLES AND SELF-INSURANCE RETENTIONS**. Any deductibles and/or self-insured retentions which apply to any of the insurance policies referred to above shall be declared in writing by the ENGINEER and approved by the DISTRICT before Work is begun pursuant to this Agreement. At the option of the DISTRICT, the ENGINEER shall either reduce or eliminate such deductibles or self-insured retentions as respect the DISTRICT, its officers, employees, volunteers, and agents, or shall provide a financial guarantee satisfactory to the DISTRICT guaranteeing payment of losses and related investigations, claim administration, and/or defense expenses.

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C. **ENDORSEMENTS.** All of the following clauses and endorsements, or similar provisions, are required to be made a part of insurance policies indicated in parentheses below:

1. A "Cross Liability", "Severability of Interest" or "Separation of Insureds" clause (CGL & BAL);
2. The San Luis Obispo Flood Control and Water Conservation District, its officers, employees, volunteers, and agents are hereby added as additional insureds with respect to all liabilities arising out of the ENGINEER's performance of Work under this Agreement (CGL & BAL);
3. If the insurance policy covers an "accident" basis, it must be changed to "occurrence" (CGL & BAL);
4. This policy shall be considered primary insurance with respect to any other valid and collectible insurance DISTRICT may possess, including any self-insured retention DISTRICT may have, and any other insurance DISTRICT does possess shall be considered excess insurance only and shall not be called upon to contribute to this insurance (CGL, BAL, & PL);
5. No cancellation or non-renewal of this policy, or reduction of coverage afforded under the policy, shall be effective until written notice has been given at least thirty (30) calendar days prior to the effective date of such reduction or cancellation to DISTRICT at the address set forth below (All Policies);
6. The ENGINEER and its insurers shall agree to waive all rights of subrogation against the DISTRICT, its officers, employees, volunteers, and agents for any loss arising under this Agreement (CGL); and
7. Deductibles and self-insured retentions must be declared (All Policies).

D. **ABSENCE OF INSURANCE COVERAGE.** The DISTRICT may direct the ENGINEER to immediately cease all activities with respect to this Agreement if it determines that the ENGINEER fails to carry, in full force and effect, all insurance policies with coverages at or above the limits specified in this Agreement. Any delays or expense caused due to stopping of Work and change of insurance shall be considered the ENGINEER's delay and expense. At the DISTRICT's discretion, under conditions of lapse, the DISTRICT may purchase appropriate insurance and charge all costs related to such policy to the ENGINEER.

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E. **PROOF OF INSURANCE COVERAGE AND COVERAGE VERIFICATION.** Prior to commencement of Work under this Agreement, and annually thereafter for the term of this Agreement, the ENGINEER, or each of the ENGINEER's insurance brokers or companies, shall provide the DISTRICT a current copy of a Certificate of Insurance, on an Accord or similar form, which includes complete policy coverage verification, as evidence of the stipulated coverages. All of the insurance companies providing insurance for the ENGINEER shall have, and provide evidence of, a Best Rating Service rate of A VI or above. The Certificate of Insurance and coverage verification and all other notices related to cancellation or non-renewal shall be mailed to:

[Insert Project Mgr.], Public Works Department
Room 207, County Government Center
San Luis Obispo CA 93408

ARTICLE 7. INDEMNIFICATION.

A. The ENGINEER shall defend, indemnify and hold harmless the DISTRICT, its officers, agents, and employees from all claims, demands, damages, costs, expenses, judgments, attorney fees, liabilities, or other losses (hereafter, collectively "claims") that may be asserted by any person or entity, and that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the ENGINEER. The parties agree that, in addition to the ENGINEER's general and professional duties of care, the ENGINEER has a duty of care to act in accordance with the terms of this Agreement. In addition to whatever other acts or omissions of ENGINEER that constitute negligence, recklessness, or willful misconduct under applicable law, the parties acknowledge that any act or omission of the ENGINEER that causes any damages, and constitutes a breach of any duty under, or pursuant to, this Agreement, shall at a minimum constitute negligence (and may constitute recklessness or willful conduct if so warranted by the facts).

B. The preceding paragraph applies to any and all such claims, regardless of the nature of the claim or theory of recovery. For purposes of the paragraphs found in this Article of the Agreement, "ENGINEER" shall include the ENGINEER, and/or its agents, employees, subcontractors, or other independent contractors hired by, or working under, the ENGINEER.

C. It is the intent of the parties to provide the DISTRICT the fullest indemnification, defense, and "hold harmless" rights allowed under the law. No provisions of this

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Agreement shall be construed in a manner that would constitute a waiver or modification of Civil Code section 2782.8. If any word(s) contained herein are deemed by a court to be in contravention of applicable law, said word(s) shall be severed from this contract and the remaining language shall be given full force and effect. Nothing contained in this Agreement shall be construed to require the ENGINEER to indemnify the DISTRICT against any responsibility or liability in contravention of Civil Code 2782.8.

ARTICLE 8. ENGINEER'S RESPONSIBILITY FOR ITS WORK.

A. The ENGINEER has been hired by the DISTRICT because of the ENGINEER's specialized expertise in performing the Work described in the attached Scope of Work, Exhibit A. The ENGINEER shall be solely responsible for such Work. The DISTRICT's review, approval, and/or adoption of any designs, plans, specifications, or any other Work shall be in reliance on the ENGINEER's specialized expertise and shall not relieve the ENGINEER of its sole responsibility for the Work. The DISTRICT is under no duty or obligation to review or verify the appropriateness, quality, or accuracy of any designs, plans, specifications, or any other Work, including but not limited to, any methods, procedures, tests, calculations, drawings, or other information used or created by the ENGINEER in performing any Work under this Agreement.

B. All information which the ENGINEER receives from the DISTRICT should be independently verified by the ENGINEER. The ENGINEER should not rely upon such information unless it has independently verified its accuracy. The only exception to the foregoing arises when the DISTRICT has expressly stated in writing that certain information may be relied upon by the ENGINEER without the ENGINEER's independent verification. In such event, the ENGINEER is still obliged to promptly notify the DISTRICT whenever the ENGINEER becomes aware of any information that is inconsistent with any information which the DISTRICT has stated may be relied upon by the ENGINEER.

C. Pursuant to the provisions of this Article, the ENGINEER is responsible for all Work under this Agreement, including the work performed by any subcontractors or any other independent contractors which ENGINEER hires or contracts with regarding the Work.

ARTICLE 9. INSURANCE AND INDEMNIFICATION AS MATERIAL PROVISIONS. The parties expressly agree that the indemnification and insurance clauses in this Agreement are an integral part of the performance exchanged in this Agreement. The compensation stated

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in this Agreement includes compensation for the risks transferred to the ENGINEER by the indemnification and insurance clauses.

ARTICLE 10. ENGINEER'S ENDORSEMENT ON REPORTS, ETC. The ENGINEER shall endorse all reports, maps, plans, documents, materials, and other data in accordance with applicable provisions of the laws of the State of California.

ARTICLE 11. DOCUMENTS, INFORMATION AND MATERIALS OWNERSHIP.

All documents, information, and materials of any and every type prepared by the ENGINEER (or any subcontractor) pursuant to this Agreement shall be the property of the DISTRICT. Such documents shall include but not be limited to data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the ENGINEER (or any subcontractor) in performing Work under this Agreement, whether completed or in process. The ENGINEER shall assume no responsibility for the unintended use by others of any such documents, information, or materials on project(s) which are not related to the scope of services described under this Agreement.

ARTICLE 12. TERMINATION OF AGREEMENT WITHOUT CAUSE. The DISTRICT may terminate this Agreement at any time by giving the ENGINEER thirty (30) calendar days written notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. Other than payments for services satisfactorily rendered prior to the effective date of said termination, the ENGINEER shall be entitled to no further compensation or payment of any type from the DISTRICT.

ARTICLE 13. TERMINATION OF AGREEMENT FOR CAUSE. If the ENGINEER fails to perform the ENGINEER's duties to the satisfaction of the DISTRICT; or if the ENGINEER fails to fulfill in a timely and professional manner the ENGINEER's obligations under this Agreement; or if the ENGINEER violates any of the terms or provisions of this Agreement; or if the ENGINEER, or the ENGINEER's agents or employees fails to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the DISTRICT, then the DISTRICT shall have the right to terminate this Agreement effective

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immediately upon the DISTRICT giving written notice thereof to the ENGINEER. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. The ENGINEER shall be paid for all Work satisfactorily completed prior to the effective date of such termination. If the DISTRICT 's termination of the Agreement for cause is defective for any reason, including but not limited to the DISTRICT's reliance on erroneous facts concerning the ENGINEER's performance, or any defect in notice thereof, this Agreement shall automatically terminate without cause thirty (30) calendar days following the DISTRICT's written notice of termination for cause to the ENGINEER, and the DISTRICT's maximum liability shall not exceed the amount payable to the ENGINEER under Article 12 above.

ARTICLE 14. COMPLIANCE WITH LAWS. The ENGINEER shall comply with all Federal, State, and local laws and ordinances that are applicable to the performance of the Work of this Agreement. This includes compliance with prevailing wage rates and their payment in accordance with the California Labor Code. The ENGINEER acknowledges that labor performed on site to support any Work required under this Agreement is a public work within the meaning of Labor Code Section 1720. The ENGINEER will comply, or cause its subconsultant(s) to comply, with the provisions of Labor Code Section 1774.

ARTICLE 15. COVENANT AGAINST CONTINGENT FEES. The ENGINEER warrants that it has not employed or retained any company or person, other than a bona fide employee working for the ENGINEER, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percent, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making this Agreement. For breach or violation of this warranty, the DISTRICT shall have the right to annul this Agreement without liability or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE 16. DISPUTES & CLAIMS.

A. **NOTICE OF POTENTIAL CLAIM.** The ENGINEER shall not be entitled to the payment of any additional compensation for any act, or failure to act, by the DISTRICT, or

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for the happening of any event, thing, occurrence, or other cause, unless the ENGINEER has provided the DISTRICT with timely written Notice of Potential Claim as hereinafter specified. The written Notice of Potential Claim shall set forth the reasons for which the ENGINEER believes additional compensation will or may be due, the nature of the cost involved, and, insofar as possible, the amount of the potential claim. The said notice as above required must have been given to the DISTRICT prior to the time that the ENGINEER shall have performed the work giving rise to the potential claim for additional compensation, if based on an act or failure to act by the DISTRICT, or in all other cases within fifteen (15) calendar days after the happening of the event, thing, occurrence, or other cause, giving rise to the potential claim. It is the intention of this paragraph that differences between the parties relating to this Agreement be brought to the attention of the DISTRICT at the earliest possible time in order that such matters may be settled, if possible, or other appropriate action promptly taken. The ENGINEER hereby agrees that it shall have no right to additional compensation for any claim that may be based on any such act, failure to act, event, thing, or occurrence for which no written Notice of Potential Claim as herein required was filed with the DISTRICT Director of Public Works.

B. **PROCESSING OF ACTUAL CLAIM.** In addition to the above requirements for Notice of Potential Claim, a detailed, Notice of Actual Claim must be submitted in writing to the DISTRICT on or before the date of final payment under this Agreement. All such claims shall be governed by the procedures set forth in section 20104.2 and 20104.4 of the Public Contract Code, except that the word "claim" as used in said sections shall be construed as referring to any claim relating to this Agreement. The ENGINEER shall not be entitled to any additional compensation unless the ENGINEER has (1) provided the DISTRICT with a timely written Notice of Actual Claim and (2) followed the procedures set forth in Public Contract Code section 20104.2 and 20104.4.

C. **CLAIM IS NO EXCUSE.** Neither the filing of a Notice of Potential Claim or of a Notice of Actual Claim, nor the pendency of a dispute or claim, nor its consideration by the DISTRICT, shall excuse the ENGINEER from full and timely performance in accordance with the terms of this Agreement.

ARTICLE 17. ENGINEER IS AN INDEPENDENT CONTRACTOR. It is expressly understood that in the performance of the services herein provided, the ENGINEER shall be, and is, an independent contractor, and is not an agent or employee of the DISTRICT. The

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ENGINEER has and shall retain the right to exercise full control over the employment, direction, compensation, and discharge of all persons assisting the ENGINEER in the performance of the services rendered hereunder. The ENGINEER shall be solely responsible for all matters relating to the payment of its employees, including compliance with Social Security, withholding, and all other regulations governing such matters.

ARTICLE 18. ENTIRE AGREEMENT AND MODIFICATION. This Agreement supersedes all previous agreements and constitutes the entire understanding of the parties hereto. The ENGINEER shall be entitled to no other compensation and/or benefits than those specified herein. No changes, amendments, or alterations shall be effective unless in writing and signed by both parties. Any changes increasing the ENGINEER's compensation and/or benefits must be approved by the DISTRICT's Board of Supervisors; any other changes may be signed by the County Director of Public Works on behalf of the DISTRICT. The ENGINEER specifically acknowledges that in entering into and executing this Agreement, the ENGINEER relies solely upon the provisions contained in this Agreement and no others. To the extent there is any inconsistency between the text in the body of this Agreement and anything in any of the Exhibits attached hereto, the text in the body of this Agreement shall prevail.

ARTICLE 19. ENFORCEABILITY. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

ARTICLE 20. WARRANTY OF ENGINEER. The ENGINEER warrants that the ENGINEER and each of the personnel employed or otherwise retained by the ENGINEER for Work under this Agreement are properly certified and licensed under the laws and regulations of the State of California to provide the special services herein agreed to.

ARTICLE 21. SUBCONTRACTORS.

A. Other than Work designated in Exhibits A and B to be performed by other persons or entities, the ENGINEER shall perform the Work contemplated with resources available within its own organization and no portion of the Work shall be subcontracted without

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written authorization by the DISTRICT. In the event the DISTRICT provides written authorization for Work to be performed by a subcontractor, the use of the words "subcontractor" and "subcontract" in this Article shall refer to such authorized subcontracting to a subcontractor of the first tier or any other tier. The terms "subcontract" and "subcontractor" include any and all contracts or arrangements by which ENGINEER hires or enters into a contract with any subconsultants regarding any Work.

B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the DISTRICT and any subcontractors, and no subcontract shall relieve the ENGINEER of its responsibilities and obligations hereunder. The ENGINEER agrees to be as fully responsible to the DISTRICT for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the ENGINEER. The ENGINEER's obligation to pay its subcontractors is an independent obligation from the DISTRICT's obligation to make payments to the ENGINEER.

C. Any subcontract entered into by the ENGINEER relating to this Agreement, shall bind the subcontractor to all of the provisions of this Article by incorporating the provisions of this Article in any such subcontract, and substituting the name of the subcontractor in place of the word "ENGINEER" where it appears in this Article.

D. Any substitution of subcontractors must be approved in writing by the DISTRICT's Project Manager in advance of assigning work to a substitute subcontractor.

ARTICLE 22. EQUIPMENT PURCHASE.

A. Prior authorization in writing, by the DISTRICT's Project Manager, shall be required before the ENGINEER enters into any unbudgeted purchase order or subcontract exceeding \$5,000 for equipment. The ENGINEER shall provide an evaluation of the necessity or desirability of incurring such costs and three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

B. Any equipment purchased as a result of this Agreement is subject to the following: "The ENGINEER shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the DISTRICT shall receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated, the ENGINEER may either keep the

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equipment and credit the DISTRICT in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established DISTRICT procedures; and credit the DISTRICT in an amount equal to the sales price. If the ENGINEER elects to keep the equipment, fair market value shall be determined at the ENGINEER's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by the DISTRICT and the ENGINEER, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the DISTRICT."

ARTICLE 23. APPLICABLE LAW AND VENUE. This Agreement has been executed and delivered in the State of California and the validity, enforceability, and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. All duties and obligations of the parties created hereunder are performable in San Luis Obispo County and such County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

ARTICLE 24. NOTICES. Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent by first class mail to the DISTRICT at:

Mr. Paavo Ogren, Director
San Luis Obispo County
Department of Public Works
County Government Center, Room 207
San Luis Obispo, CA 93408

and to the ENGINEER:

ARTICLE 25. COST DISCLOSURE - DOCUMENTS AND WRITTEN REPORTS. Pursuant to Government Code section 7550, if the total cost of this Agreement is over \$5,000, the ENGINEER shall include in all final documents and in all written reports submitted a written summary of costs, which shall set forth the numbers and dollar amounts of all contracts and

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subcontracts relating to the preparation of such documentation or written report. The Agreement and subagreement numbers and dollar amounts shall be contained in a separate section of such document or written report.

ARTICLE 26. CONFIDENTIALITY OF DATA.

A. All financial, statistical, personal, technical, or other data and information relative to the DISTRICT's operations, which are designated confidential by the DISTRICT and made available to the ENGINEER in order to carry out this Agreement, shall be protected by the ENGINEER from unauthorized use and disclosure, and shall not be made available to any individual or organization by the ENGINEER without the prior written approval of the DISTRICT.

B. Permission to disclose information on one occasion, or public hearing held by the DISTRICT relating to this Agreement, shall not authorize the ENGINEER to further disclose such information, or disseminate the same on any other occasion.

C. All information related to the construction estimate is confidential, and shall not be disclosed by the ENGINEER to any entity other than the DISTRICT.

ARTICLE 27. RESTRICTIVE COVENANT. The ENGINEER agrees that it will not, during the continuance of this Agreement, perform or otherwise exercise the services described in Exhibit A for anyone except for the DISTRICT, unless and until the DISTRICT waives this restriction.

ARTICLE 28. QUALITY CONTROL AND QUALITY ASSURANCE. The ENGINEER shall provide a description of its Quality Control procedure. The process shall be implemented for all facets of Work and a QC-QA statement and signature shall be placed on all submittals to the DISTRICT.

ARTICLE 29. CLAIMS FILED BY DISTRICT'S CONSTRUCTION CONTRACTOR.

A. If claims are filed against the DISTRICT by the DISTRICT's construction contractor or any other third party that relates in any way to any subject, plans, designs, or other Work within the ENGINEER's Scope of Work under this Agreement, and additional information or assistance from the ENGINEER's personnel is requested by the DISTRICT in order to evaluate or defend against such claims, the ENGINEER agrees to cooperate

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with and provide timely response to any reasonable requests for information submitted to the ENGINEER by the DISTRICT relating to such claims. To the extent the information requested by the DISTRICT only seeks copies of documents or other factual information relating to Work performed by the ENGINEER, the ENGINEER will only be compensated for any clerical costs associated with providing the DISTRICT the requested factual information.

B. The ENGINEER's personnel that the DISTRICT considers essential to assist in defending against such claims will be made available for consultation with the DISTRICT upon reasonable notice from the DISTRICT. In the event the expert opinions of the ENGINEER's personnel is sought by the DISTRICT through such consultation or through testimony, and only in such event, such consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the ENGINEER's personnel services under this Agreement. In the event the testimonies of any of the ENGINEER's personnel are sought by another party, the ENGINEER reserves the right to charge other party a different rate for deposition or trial testimony.

C. Services of the ENGINEER's personnel in connection with the DISTRICT's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this agreement in order to finally resolve the claims.

D. Any subcontract entered into by the ENGINEER relating to this Agreement, shall bind the subcontractor to all of the provisions of this Article by incorporating the provisions of this Article in any such subcontract, and substituting the name of the subcontractor in place of the word "ENGINEER" where it appears in this Article.

ARTICLE 30. CONFLICT OF INTEREST.

A. The ENGINEER shall disclose any financial, business, or other relationship with the DISTRICT that may be affected by the outcome of this Agreement, or any ensuing DISTRICT construction project. The ENGINEER shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing DISTRICT construction project, which will follow.

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- B. The ENGINEER hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement.
- C. Any subcontract entered into by the ENGINEER relating to this Agreement, shall bind the subcontractor to all of the provisions of this Article by incorporating the provisions of this Article in any such subcontract, and substituting the name of the subcontractor in place of the word "ENGINEER" where it appears in this Article.
- D. The ENGINEER hereby certifies that neither the ENGINEER, nor any firm affiliated with the ENGINEER will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement. An affiliated firm is one, which is subject to the control of one or more of the same persons through joint-ownership, or otherwise.
- E. Except for subcontractors whose services are limited to providing surveying or materials testing information, no subcontractor who has provided design services in connection with this Agreement shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement.

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IN WITNESS THEREOF, the parties hereto have executed this Agreement, and this Agreement shall become effective on the date shown signed by the San Luis Obispo County Flood Control and Water Conservation District.

SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By: _____
Chairperson of the Board
San Luis Obispo County Flood Control and
Water Conservation District
State of California

Date: _____

ATTEST:

By: _____
County Clerk and Ex-Officio Clerk of the
Board of Supervisors, County of San Luis Obispo,
State of California

Date: _____

ENGINEER

By: _____
Name: _____
Title: _____

Date: _____

APPROVED AS TO FORM AND LEGAL EFFECT:
RITA L. NEAL
County Counsel

By: _____
Deputy County Counsel

Date: _____

**EXHIBITS TO INCLUDE WITH “NON-FEDERAL FUNDING”
ENGINEERING CONSULTING SERVICES CONTRACT**

<u>Exhibit</u>	<u>Description</u>
A	Scope of Work (<i>From Consultant</i>)
B	Cost Proposal (<i>From Consultant</i>)
C	Consultant’s Organizational Chart (Project Team) (<i>From Consultant</i>)

Notes:

- Provide P.W. Department Accounting Division with a copy of the Consultant’s IRS W-9 Form